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BEFORE THE ARIZONA POWER PLANT AND

AZ CORP COMMISSION
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TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION
OF SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT AND
POWER DISTRICT ON BEHALF OF ITSELF
AND ARIZONA PUBLIC SERVICE
COMPANY, SANTA CRUZ WATER AND
POWER DISTRICTS ASSOCIATION,
SOUTHWEST TRANSMISSION COOPER-
ATIVE, INC. AND TUCSON ELECTRIC
POWER IN CONFORMANCE WITH THE
REQUIREMENTS OF ARIZONA REVISED
STATUTES SECTION 40-360, et. seq., FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AUTHORIZING
CONSTRUCTION OF THE PINAL WEST TO
SOUTHEAST VALLEY/BROWNING
PROJECT INCLUDING THE CONSTRUC-
TION OF TRANSMISSION LINES FROM
PINAL WEST TO THE BROWNING SUB-
STATION AND OTHER INTERCONNEC-
TION COMPONENTS IN PINAL AND
MARICOPA COUNTIES, ARIZONA.

Docket No. L00000B-04-0126

Case No. 126

Arizona Corporation Commission

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**APPLICANT'S RESPONSE TO SAVE OUR VALLEY
ASSOCIATION'S PROCEDURAL REQUEST**

In its "Procedural Request" the "Save Our Valley Association" ("SOVA") asks that the Committee order that a route tour include a certain alignment advocated by the SOVA, but not included as an alternative in the Application. Applicant submits that this request is premature and contrary to the procedural order issued in this case. Also, at the appropriate time, Applicant will argue that the route proposed by SOVA should not be considered by the Committee.

Introductory Facts

SOVA advocates a route that was rejected early in the public process, even before the filing of the Palo Verde to Pinal West Application. It is a route that, among other

1 things, will present serious electric reliability and timing concerns. It is a route where the
2 Applicant does not want to build.

3 Specifically, SOVA suggests a route on BLM land that would parallel the existing
4 345 kV TEP transmission line south through a narrow mountain pass. In the narrow
5 mountain pass are not only the existing TEP line, but another already permitted, but yet
6 unbuilt, 345 kV line, a permitted but yet unbuilt 500 kV line, and a permitted but yet
7 unbuilt 230 kV line. These total four high voltage lines, without considering SOVA's
8 proposal. A map of the SOVA proposed route is attached. (get map)

9 Applicant opposes this route for two non-environmental reasons. First, there is no
10 reason to crowd multiple lines in this corridor, where reasonable alternatives exist. The
11 mountain pass on the SOVA route will reasonably accommodate two lines, and at best
12 three. Even if all of the permitted lines are not built, this alternative would create
13 unnecessary crowding and the consequent reliability concerns of multiple parallel lines,
14 too close together.

15 Second, the SOVA route traversed Bureau of Land Management land. Crossing
16 BLM land will trigger National Environmental Policy Act ("NEPA") requirements, most
17 likely for the entire route. Applicant does not want to spend the time (nor the money) to
18 go through the NEPA process, particularly where very acceptable alternatives exist.

19 Applicant also opposes the route for environmental reasons. Particular to these is
20 the impact on the large number of homes that would be crossed when turning West
21 toward the Santa Rosa substation. Under almost any scenario, some homes would need
22 to be acquired and a considerable number of homes impacted.

Argument

1. The request is premature and contrary to the procedural order

The procedural order issued in this case on November 18, 2004 provides the Committee with the opportunity for three route tours, one for each of Areas A, B and C. The route tours will be held close to the hearing days considering the particular area. The SOVA area of interest is Area A. The Applicant expects that the hearings on this Area A will be held in December, so it is reasonable to assume that the route tour, if one is held, will be in that time frame.

Of course, as the hearings have not yet begun, no evidence has been presented and the Committee has not indicated that it wants a route tour at all, much less that it wants to view certain intervenor proposed routes. The procedural order states in paragraph 9:

9. Route Tours. The Applicant shall make available to the Committee members the offer of a route tour for each of Areas A, B and C. Where practical and convenient for the Committee, the route tours shall be scheduled in proximity to the scheduled hearing dates for each area. Applicant shall meet and confer with Staff and other intervenors to formulate an acceptable protocol, including the itinerary for the route tours, and shall submit the protocol in advance to the Committee for review and approval.

The procedural order also provides for a meet and confer obligation:

13. Meet and confer obligation. The parties are asked to meet and confer, and attempt to resolve any disputes that may arise during the course of the proceedings.

Applicant suggests that this request is premature. Applicant has never been contacted by SOVA to include an option of a "BLM corridor" route on the tour. In fact, Applicant would be willing to include in the Area A tour itinerary an option for a BLM corridor segment, while not agreeing to include it in the tour.

But it is the Committee who will decide whether it wants to include the BLM corridor route on the tour. And this decision will reasonably be made by the Committee

1 when it has received evidence and considered the issue. For this reason Applicant
2 suggests that the motion is premature.

3 2. *The Committee should not substitute its judgment for those of the Applicant on*
4 *issues of reliability, timing and cost.*

5 The SOVA request suggests that the Committee may choose any route not
6 proposed by the Applicant, subject only to additional public notice. But, Applicant
7 submits that the issue is not that simple.

8 Certainly, the Committee may suggest alternative routes not in the application and
9 consider them subject to the requirement of additional public notice. But, the Committee
10 needs to be careful in forcing routes that are not acceptable to the applicant for non-
11 environmental reasons. To do so would place the Committee in a position to make
12 reliability, timing and facilities decisions that are beyond its expertise and jurisdiction.

13 We relate this comment to the wording of the statute itself. First, the jurisdiction
14 of the Committee is environmental:

15 A. The committee may approve or deny an application and
16 may impose reasonable conditions upon the issuance of a
17 certificate of environmental compatibility and in so doing
18 shall consider the following factors as a basis for its action
with respect to the suitability of either plant or transmission
line siting plans:

19 1. Existing plans of the state, local government and private
20 entities for other developments at or in the vicinity of the
proposed site.

21 2. Fish, wildlife and plant life and associated forms of life
22 upon which they are dependent.

23 3. Noise emission levels and interference with
communication signals.

24 4. The proposed availability of the site to the public for
25 recreational purposes, consistent with safety considerations
and regulations.

1 5. Existing scenic areas, historic sites and structures or
2 archaeological sites at or in the vicinity of the proposed site.

3 6. The total environment of the area.

4 7. The technical practicability of achieving a proposed
5 objective and the previous experience with equipment and
6 methods available for achieving a proposed objective.

7 8. The estimated cost of the facilities and site as proposed by
8 the applicant and the estimated cost of the facilities and site as
9 recommended by the committee, recognizing that any
10 significant increase in costs represents a potential increase in
11 the cost of electric energy to the customers or the applicant.

12 9. Any additional factors which require consideration under
13 applicable federal and state laws pertaining to any such site.

14 B. The committee shall give special consideration to the
15 protection of areas unique because of biological wealth or
16 because they are habitats for rare and endangered species.

17 A.R.S. § 40-360.06.

18 While the Committee is logically tasked with building a record for a Corporation
19 Commission decision on purpose and need (A.R.S. § 40-360.07(B)), it is not given
20 independent jurisdiction to make purpose and need determinations.

21 Second, while the statute contemplates that the Committee might "condition" the
22 application on the use of a site other than that included in the application (A.R.S. § 30-
23 360.04(A)), it does not contemplate that the Committee would force an applicant to
24 actually build on a site deemed unacceptable by the applicant. The statute simply
25 requires that the Committee give additional notice and hold an additional hearing
26 regarding the new proposal and that the Committee determine the cost differential for the
new proposed site.

Thus, the Committee has a difficult task. Clearly it wants to accept testimony
from the Commission staff on issues of purpose and need and reliability, and in
appropriate cases should work with the applicant on these issues. But, it also wants to

1 work within the reasonable confines of its statutory jurisdiction and expertise.

2 Applicant is not suggesting here any limitation on the jurisdiction of the
3 Committee nor any limitation on the Committee's ability to hear relevant evidence and
4 view relevant sites. Applicant is simply suggesting that the Committee should consider
5 deferring on the opportunity to debate reliability and timing needs in the hearing room.

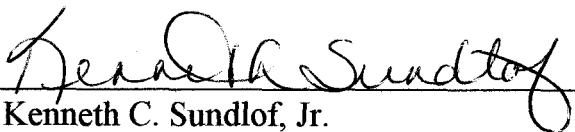
6 Applicant will discuss this point with the Committee if and when the issue of a
7 tour of the BLM alignment is timely raised.

8 For these reasons the Applicant respectfully requests that the Committee take no
9 action at this time on the SOVA Procedural Request.

10 Dated this 29th day of November, 2004.

11 JENNINGS, STROUSS & SALMON, P.L.C.

12
13 By



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21 ORIGINAL and 37 copies of the
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